

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JUKEN WASHINGTON GORDON,

Plaintiff,

-v-

9:06-CV-450 (LEK/ DEP)

HARRELL WATTS, *et al.*,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on February 27, 2009, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 43).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to the Report-Recommendation filed by Judge Peebles. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 43) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that this case is **DISMISSED** based upon Plaintiff's failure to prosecute and to

comply with this Court's Orders and Local Rules, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Northern District of New York Local Rule 41.2(b); and it is further

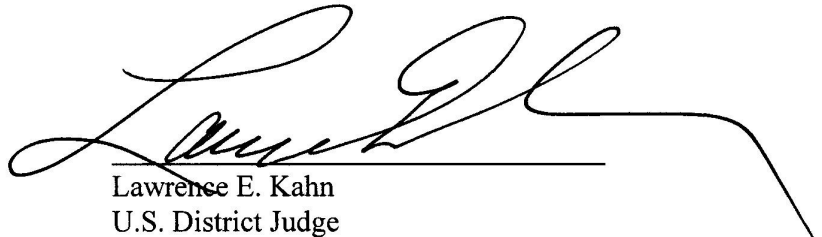
ORDERED, that Defendants' Motion to dismiss or for summary judgment (Dkt. No. 23) is **DENIED as moot**; and it is further

ORDERED, that the Clerk forward a copy of this dismissal Order to the Clerk of the Second Circuit Court of Appeals, where Plaintiff currently has an appeal pending (USCA case number 08-1595-pr); and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 24, 2009
Albany, New York



Lawrence E. Kahn
U.S. District Judge